

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHILDREN'S INTERNET INC., et al.,

Defendants.

No. C 06-06003 CW

ORDER TEMPORARILY
VACATING HEARING FOR
CONTEMPT AND
ORDERING PERIODIC
BRIEFING ON
DEFENDANT POYNER'S
MEDICAL CONDITION

An evidentiary hearing is set for December 4, 2009 on Plaintiff's motion for civil contempt and remedial sanctions against Defendant Cort L. Poyner. On December 2, 2009, a declaration was filed by Thomas J. LoSavio, Mr. Poyner's attorney. Mr. LoSavio states that Mr. Poyner is hospitalized in the intensive care unit at Jackson Memorial Hospital in Miami, Florida and that Mr. Poyner is unable to travel to attend the December 4 hearing and has been unable to assist in his defense. Mr. LoSavio submits a declaration from Marcie McNeely, who has power of attorney for Mr. Poyner and is making decisions regarding his medical care. Ms. McNeely declares that Mr. Poyner has several serious health problems and recently his health has declined such that there have been instances where he has been placed on a respirator and feeding machine. Based upon these representations, Mr. LoSavio requests an

1 indefinite continuance of the contempt hearing until Mr. Poyner's
2 condition improves.

3 Plaintiff has responded that, in light of the declarations of
4 Mr. LoSavio and Ms. McNeely regarding Mr. Poyner's current medical
5 condition, it does not object to a postponement of the December 4
6 evidentiary hearing. However, Plaintiff disagrees with Mr.
7 LoSavio's request that the hearing be postponed indefinitely.
8 Plaintiff requests that the Court order Mr. LoSavio to file and
9 serve a written update, with supporting materials, on Mr. Poyner's
10 condition within the next forty days and to provide periodic email
11 updates to Plaintiff during those forty days. Plaintiff requests
12 that, in forty days, after review of the update on Mr. Poyner's
13 medical condition, the Court make a determination regarding a new
14 hearing date.

15 Having considered the papers filed by the parties, the Court
16 hereby temporarily vacates the evidentiary hearing set for December
17 4, 2009. Mr. LoSavio is ordered to file a written update, with
18 supporting medical documentation, regarding Mr. Poyner's medical
19 condition within forty days from the date of this Order. Mr.
20 LoSavio is also ordered to provide periodic email updates to
21 Plaintiff during those forty days. A new date for the evidentiary
22 hearing will be set after the Court receives and reviews Mr.
23 LoSavio's written update.

24 IT IS SO ORDERED.

25
26 Dated: December 3, 2009



27 CLAUDIA WILKEN
28 United States District Judge